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**SF 2309** – Sales and Use Tax, Nexus (LSB 5408SV)

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Fiscal Note Version – New

Requested by Senator William A. Dotzler, Jr.

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### **Description**

**Senate File 2309** expands the definition, for sales and use tax collection purposes, of a retailer maintaining a place of business in the State to include any person that has substantial nexus in Iowa, other than a common carrier, if that person engages in any of the following activities:

- Sells a similar line of products as the retailer and does so under the same or a similar name.
- Maintains an office, distribution facility, warehouse, storage place, or similar place of business in the State to facilitate the delivery of property or services sold by the retailer to the retailer's customers.
- Uses trademarks, service marks, or trade names in the State that are the same or substantially similar to those used by the retailer.
- Delivers, installs, assembles, or performs maintenance services for the retailer's customers.
- Facilitates the retailer's deliveries of property to customers in the State by allowing the retailer's customers to take delivery of property sold by the retailer at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in the State.
- Conducts any other activities in the State that are significantly associated with the retailer's ability to establish and maintain a market for the retailer's sales.

### **Assumptions**

- The United States e-commerce share of retail sales is calculated at 4.5% (based on U.S. Census Bureau retail sales data from March 2006 through December 2011).
- Iowa taxable retail sales data for FY 2007 through FY 2011 is from the Department of Revenue's sales and use tax database.
- Currently, approximately 15.0% of e-commerce sales in the State are subject to State sales tax. Those sales are made by businesses with nexus under current law.
- Additionally, some online retailers participate in the Streamlined Sales Tax Program and currently collect and remit sales tax on purchases made by Iowa residents. The amount collected in FY 2011 was approximately \$12.0 million.
- Iowa residents that make online purchases are required to pay consumer use tax for taxable items. However, compliance and enforcement are minimal.
- Current estimates indicate that the percentage of e-commerce sales not subject to sales tax ranges between 25.0% - 75.0%. This estimate assumes the maximum rate of 75.0% of e-commerce sales are not subject to sales tax. Currently, the Department of Revenue already considers some of the expanded definitions provided in the Bill to establish nexus; therefore, companies meeting those criteria should already be remitting sales tax. Based on the current status, it is assumed the additional percent of e-commerce retail sales that will now be subject to sales tax is 10.0%.
- The average annual growth rate of e-commerce retail sales share of total retail sales is 8.6% (based on the national e-commerce share of retail sales from FY 2007 to FY 2011).

- Annual average taxable retail sales are estimated to increase 3.7% in FY 2012, 3.4% in FY 2013, 3.7% in FY 2014, 4.4% in FY 2015, and 3.8% in FY 2016.
- The State sales tax rate is 6.0% with five-sixths of the State sales tax deposited in the General Fund and one-sixth deposited in the Secure an Advanced Vision for Education (SAVE) Fund. The statewide average local option sales tax (LOST) rate is 0.87%.

**Fiscal Impact**

The following table provides the estimated fiscal impact of [SF 2309](#) on State sales tax revenue to the General Fund and the Secure an Advanced Vision for Education Fund. State sales tax is estimated to increase by \$4.7 million in FY 2013, \$5.3 million in FY 2014, \$6.0 million in FY 2015, and \$6.8 million in FY 2016.

<b>Estimated Fiscal Impact of Bill (Dollars in Millions)</b>						
	<u>State Sales Tax</u>		<u>General Fund</u>		<u>SAVE Fund</u>	<u>LOST</u>
FY 2013	\$ 4.7	\$	3.9	\$	0.8	\$ 0.7
FY 2014	5.3		4.4		0.9	0.8
FY 2015	6.0		5.0		1.0	0.9
FY 2016	6.8		5.7		1.1	1.0

SAVE = Secure an Advanced Vision for Education  
LOST = Local Option Sales Tax

**Sources**

Iowa Department of Revenue  
LSA calculations

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March 15, 2012

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The fiscal note for this bill was prepared pursuant to **Joint Rule 17** and the correctional and minority impact statements were prepared pursuant to [Iowa Code section 2.56](#). Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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